

Congress of the United States
House of Representatives
Washington, D.C. 20515
April 25, 2018

Mr. Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW, Suite 218
Washington, DC 20036

Dear Mr. Kerner:

We request that the Office of Special Counsel conduct an investigation into whether senior officials at the Environmental Protection Agency (EPA) engaged in a pattern of prohibited personnel practices under the leadership of Administrator Scott Pruitt.

At least six EPA officials, including five career employees and one political appointee, reportedly were reassigned, demoted, or requested new jobs in the past year after raising management and spending concerns about Administrator Pruitt. These employees reportedly raised concerns—in some instances directly to Administrator Pruitt—regarding abnormally high spending on office furniture, first class flights, and security demands by Administrator Pruitt, such as a twenty-person security detail and a request for a bullet-proof vehicle.¹

One career employee reportedly was removed after approving an internal report that failed to identify credible direct threats against Administrator Pruitt to justify significant security spending.²

An EPA spokesperson appeared to acknowledge that personnel actions were taken against these employees, describing them as “a group of disgruntled employees who have either been dismissed or reassigned.”³

The reassignment or dismissal of employees who questioned Administrator Pruitt’s wasteful and potentially unlawful expenditures suggests a troubling pattern of retaliation against EPA employees that may be illegal.

¹ *EPA Officials Sidelined After Questioning Scott Pruitt*, New York Times (Apr. 5, 2018) (online at www.nytimes.com/2018/04/05/business/epa-officials-questioned-scott-pruitt.html).

² *EPA Removes Staffer Who Ok’d Report on Pruitt’s Security*, Politico (Apr. 10, 2018) (online at www.politico.com/story/2018/04/10/documents-contradict-epa-claims-threats-984459).

³ *Former Pruitt Aide to Talk to Congressional Investigators This Week*, CNN (Apr. 10, 2018) (online at www.cnn.com/2018/04/10/politics/epa-pruitt-chmielewski/index.html).

Federal law prohibits an agency official from taking or failing to take a personnel action if doing so “violates any law, rule or regulation implementing, or directly concerning, the merit system principles.”⁴ Federal law specifically prohibits retaliation because of an employee “refusing to obey an order that would require the individual to violate a law, rule, or regulation.”⁵

The Whistleblower Protection Act also prohibits personnel actions taken because of any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences “(i) any violation of any law, rule, or regulation, or (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.”⁶

We are extremely concerned that Administrator Pruitt and other senior officials at EPA may have engaged in retaliation against employees who raised concerns about his actions. We are also concerned about the long-term impact that this apparent retaliation may have on the willingness of EPA and other Executive Branch employees to report waste, fraud, and abuse.

As you know, the Office of Special Counsel “may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that a prohibited personnel practice (or pattern of prohibited personnel practices) has occurred, exists, or is to be taken.”⁷

⁴ 5 U.S.C. § 2302(b)(12).

⁵ 5 U.S.C. § 2302(b)(9).

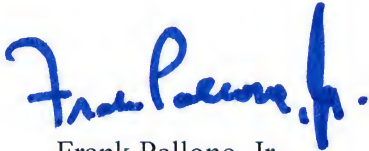
⁶ 5 U.S.C. § 2302(b)(8).

⁷ 5 U.S.C. § 1214.

The Honorable Henry Kerner
April 25, 2018
Page 3

We therefore request that you conduct an investigation to determine whether any prohibited personnel practices, or a pattern of prohibited personnel practices, occurred or continue to exist at EPA. If you have any questions, please contact Jon Monger with the Committee on Energy and Commerce Democratic Staff at (202) 225-3641 or Krista Boyd with the Committee on Oversight and Government Reform Democratic Staff at (202) 225-9493.

Sincerely,



Frank Pallone, Jr.
Ranking Member
Committee on Energy
and Commerce



Elijah E. Cummings
Ranking Member
Committee on Oversight
and Government Reform

Cc: Greg Walden, Chairman, Committee on Energy and Commerce
Trey Gowdy, Chairman, Committee on Oversight and Government Reform